

FCC comments

WUKY opposes the commission's proposed rule to make it mandatory that broadcast stations record their programming from either 6:00 AM to 10:00 PM or some other time period (e.g., 24/7) and retain those recordings for 60 to 90 days.

While we believe that it is a matter of good broadcast practice to aircheck our broadcasts for internal use, there's a substantial difference between a station voluntarily recording its programming and being forced to do so by FCC policy. Our concerns are on several levels.

The retention period of 60-90 days would require an exceptionally large storage device that would be very costly--especially to a small, non-commercial station like WUKY. Also, it is not clear from the FCC's proposal whether we would be required to aircheck only our main programming service, or if we'd also have to record our subcarrier (currently devoted to closed-circuit broadcasts of a reading service for the blind) and any new programming streams that we may choose to add when we convert to HD radio broadcasting next year. In addition, we intend to apply for licenses to operate repeaters in communities surrounding Lexington. These stations would rebroadcast the programming carried on WUKY, but the FCC proposal seems to imply that we would have to make separate recordings of the signals of these stations, further deepening the financial burden that we would face.

Further, we are concerned that (as some interest groups have already begun to advocate) that these recordings should be somehow incorporated into our Public File. In order to meet this kind of requirement, we would have to install several dedicated playback devices at the station to accommodate the potential for multiple users to simultaneously audition the programs that they want to hear. Not only does this again impose a financial burden on the station, it also would exacerbate the space problems that we already face. There's simply no more room for us to dedicate to these listening stations. Moreover, there are serious copyright issues that would have to be addressed--and which are beyond the purview of the FCC. We have the right to record and broadcast a variety of programs from NPR, PRI, BBC, APM, and independent producers. However, we do not have the right to retain these programs for any non-broadcast uses.

A recent example of non-broadcast use of acquired programming should suffice to show the potential problems that arise from this FCC proposal. During the Olympic Games, currently underway in Athens, we are allowed to air live news reports about the games from the BBC. However, we cannot put these reports on our web stream, because those rights belong exclusively to the Olympic committee itself. Similar restrictions would undoubtedly prevent us from allowing listeners to hear previously broadcast national programming.

Given how few stations are subject to indecency complaints and how few complaints are dismissed for lack of supporting information (less than 1% of all complaints), the proposed requirement simply does not make sense--especially given the high cost, the

burden that would be placed on staff, the space requirements (should the public file requirement come to pass), and the uncertainty which of our services would have to be recorded. WUKY, for example, has been in existence since 1941 and in that time has never been subject to an indecency complaint. Why should we now have to record and preserve our programming on an ongoing basis in the exceedingly unlikely event that we might some day face an indecency complaint?

In the end, we at WUKY sincerely believe that the FCC should leave it up to each individual station to decide whether and how best to record its programming.